



State of Wisconsin  
2011-2012 LEGISLATURE

McG & JK



RMR

LRB-1053/3

JK&MSO:cjs:ph

stays

D-N

DOA:.....Wavrunek, BB0248 - Aids in lieu of taxes and stewardship provisions regarding lands under the jurisdiction of the Department of Natural Resources

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

SA

NOT gen

moneys

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

**OTHER NATURAL RESOURCES**

***Land acquisition using stewardship grants***

Under current law, DNR administers the stewardship program which provides grants to certain units of government and nonprofit conservation organizations for various conservation purposes, such as increasing urban green space and protecting stream banks or bluffs along the Great Lakes. Under the program, DNR may provide grants to acquire either land or easements, development rights, or other interests in land.

The bill requires that DNR, in awarding these grants for land acquisition, give higher priority to fee simple acquisitions than to acquisitions of easements or other rights in land. An acquisition in fee simple is one where all the interest in the land is acquired as opposed to an easement or development rights.

The bill ~~also~~ requires a city, village, town, or county to adopt a nonbinding resolution that either supports or opposes a proposed acquisition of land with a stewardship grant and requires DNR to consider the resolution in determining whether to approve the grant. This does not apply

acquisition

OR easement

With limited exceptions.

INS ANL

*under  
the Stewardship  
program*

Under current law, lands and certain easements on lands, acquired ~~using a stewardship grant or by DNR directly using stewardship funding~~ <sup>using a</sup> must be open to the public for nature-based outdoor activities such as hunting, fishing, hiking, and cross-country skiing unless the DNR board determines that the land may be closed to protect public safety or a unique animal or plant community or to accommodate usership patterns such as conflicts between these types of activities (reasons for prohibiting public access).

The bill eliminates the accommodation of usership patterns as a reason for prohibiting public access with respect to lands, or certain easements on lands, that are acquired ~~with stewardship grants~~ after the bill becomes law. The bill also provides, for these lands and easements, that no local unit of government or state agency may enact an ordinance, promulgate a rule, or adopt any other regulation that restricts nature-based activities that is not in conformance with state law or with a determination concerning access made by DNR for the land in question.

#### ***Joint finance review of stewardship acquisition***

Under current law, if a land acquisition or development project under the stewardship program costs more than \$750,000, DNR cannot obligate money from the stewardship fund for that activity until DNR gives written notice of the proposed activity to JCF. JCF may schedule a meeting to review the proposal only if at least five members of JCF, one of whom is a cochairperson, object in writing to the proposed activity. If the cochairpersons of JCF do not notify DNR within 14 working days after the date of DNR's notification that JCF ~~had~~ <sup>has</sup> scheduled a meeting to review the proposed activity, DNR can obligate the money. If the cochairpersons notify DNR that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money only if JCF approves the proposed activity or if JCF fails to hold the meeting within a specific number of working days. This bill decreases the \$750,000 threshold amount to \$250,000.

#### ***Aid in lieu of taxes for DNR lands***

Under current law, land that DNR purchases is not subject to property taxes. Instead, DNR makes annual payments to municipalities for each parcel of land that the DNR has purchased in those municipalities. The payment amount is determined, generally, by multiplying the parcel's estimated value by the aggregate net general property tax rate that would apply to the parcel if it were subject to property taxes. This bill eliminates those payments for land purchased after the bill's effective date.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

← INSERT  
2-1

23.0916 (1) (am) "Local governmental unit" means a city, a village, a town, a county, a special purpose district in this state, an agency or corporation of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

**SECTION 2.** 23.0916 (1) (bg) of the statutes is created to read:

23.0916 (1) (bg) "State agency" has the meaning given in s. 16.004 (12) (a).

**SECTION 3.** 23.0916 (2) (a) of the statutes is amended to read:

23.0916 (2) (a) Except as provided in par. (b) and sub. (4), any person receiving a stewardship grant on or after October 27, 2007 and before the effective date of this paragraph .... [LRB inserts date], that will be used to acquire land in fee simple or to acquire an easement on former managed forest land shall permit public access to the land for nature-based outdoor activities.

**SECTION 4.** 23.0916 (2) (b) (intro.) of the statutes is amended to read:

23.0916 (2) (b) (intro.) The person receiving ~~the a~~ stewardship grant subject to par. (a) may prohibit public access for one or more nature-based outdoor activities, only if the natural resources board determines that it is necessary to do so in order to do any of the following:

**SECTION 5.** 23.0916 (2) (c) of the statutes is created to read:

23.0916 (2) (c) Except as provided in par. (d) and sub. (4), any person receiving a stewardship grant on or after the effective date of this paragraph .... [LRB inserts date], that will be used to acquire land in fee simple or to acquire an easement ~~on~~ former managed forest land shall permit public access to the land for nature-based outdoor activities.

**SECTION 6.** 23.0916 (2) (d) of the statutes is created to read:

23.0916 (2) (d) The person receiving a stewardship grant subject to par (c) may prohibit public access for one or more nature-based outdoor activities only if the natural resources board determines that it is necessary to do so in order to do any of the following:

1. Protect public safety.
2. Protect a unique animal or plant community.

SECTION 7. 23.0916 (2)(d) (3m) of the statutes is created to read:

23.0916 (2)(d) (3m) Notwithstanding ss. 29.038 (2) (b) and 66.0409 (3) (b), a local governmental unit or state agency may not enact any ordinance, promulgate any rule, or adopt any regulation, resolution, or other restriction that prohibits public access for any nature-based outdoor activity to land for which a stewardship grant is awarded under par. (c) unless the ordinance, rule, regulation, resolution, or restriction is in strict conformance with state law or with a determination made by the natural resources board under par. (a). *which money are obligated from the appropriation under 5.20.866 (2)(a) statutory (2)(b) or (d) or (3)(b) or (c)*

SECTION 8. 23.0916 (3) (b) (intro.) of the statutes is amended to read:

23.0916 (3) (b) (intro.) The department may prohibit public access for one or more nature-based outdoor activities only if the natural resources board determines that it is necessary to do so in order to do any of the following: *on land and easements subject to par (a)*

SECTION 9. 23.0916 (4) of the statutes is amended to read:

23.0916 (4) FISH AND GAME REFUGES. The department or an owner of land that is in a fish or game refuge and that is subject to sub. (2) (a) or (c) or (3) (a) may prohibit hunting, fishing, or trapping, or any combination thereof.

SECTION 10. 23.0916 (5) (a) of the statutes is amended to read:

23.0916 (5) (a) Provisions relating to public access for nature-based outdoor activities for all lands other than those subject to sub. (2) (a) or (c) or (3) (a) that are

INSERT  
4-18

1 acquired in whole or in part with funding from the stewardship programs under ss.  
2 23.0915 and 23.0917.

3 **SECTION 11.** 23.0916 (5) (b) of the statutes is amended to read:

4 23.0916 (5) (b) A process for the review of determinations made under subs. (2)  
5 (b) <sup>or</sup> ~~or~~ (d) and (3) (b) <sup>or (c)</sup>.

6 **SECTION 12.** 23.0917 (5r) of the statutes is created to read:

7 23.0917 (5r) PRIORITY FOR FEE SIMPLE ACQUISITIONS. In ~~awarding stewardship~~

8 ~~grants, as defined in s. 23.0916 (1) (m)~~ for land acquisition the department shall give

9 higher priority to acquisitions of land in fee simple than to acquisitions of easements

10 ~~or other rights in land.~~

11 **SECTION 13.** 23.0917 (5t) of the statutes is created to read:

12 23.0917 (5t) LOCAL GOVERNMENTAL RESOLUTIONS. Each city, village, town, or  
13 county shall adopt a nonbinding resolution that supports or opposes the proposed  
14 acquisition of land <sup>to be</sup> funded by ~~a stewardship grant, as defined in s. 23.0916 (1) (m)~~ if

15 ~~the~~ all or a portion of the land is located in the city, village, town, or county. The

16 department shall provide written notification to each city, village, town, or county

17 that is required to adopt a resolution. Within 30 days after receiving the notification,

18 the city, village, town, or county shall adopt the resolution and shall provide the

19 department with a copy of the resolution. If the department receives the copy within

20 this time period, the department may not approve or deny the ~~stewardship grant~~ <sup>proposed acquisition</sup>

21 until it takes the resolution into consideration ~~in determining whether it will~~

22 ~~approve or deny the grant.~~

23 **SECTION 14.** 23.0917 (6m) (c) of the statutes is amended to read:

<sup>(in fee simple)</sup>  
→ This paragraph does not apply to <sup>(proposed)</sup> acquisitions  
of land or easements under the forest legacy program  
under 16 USC 2013 c.  
Δ = Δ = Δ

23.0917 (6m) (c) The procedures under pars. (a) and (b) apply only to an amount for a project or activity that exceeds ~~\$750,000~~ \$250,000, except as provided in pars. (d) and (dm).

**SECTION 15.** 23.0917 (6m) (dm) (intro.) of the statutes is amended to read:

23.0917 (6m) (dm) (intro.) The procedures under pars. (a) and (b) apply to an amount for a project or activity that is less than or equal to ~~\$750,000~~ \$250,000 if all of the following apply:

**SECTION 16.** 23.0917 (6m) (dm) 1. of the statutes is amended to read:

23.0917 (6m) (dm) 1. The project or activity is so closely related to one or more other department projects or activities for which the department has proposed to obligate or has obligated moneys under s. 20.866 (2) (ta) that the projects or activities, if combined, would constitute a larger project or activity that exceeds ~~\$750,000~~ \$250,000.

**SECTION 17.** 70.114 (5) of the statutes is created to read:

70.114 (5) SUNSET. No aids shall be paid under this section for lands acquired after the effective date of this subsection .... [LRB inserts date].

**SECTION 9335. ACQUISITIONS. Initial applicability; Natural Resources.**

(1) STEWARDSHIP ~~(a)~~ <sup>(a)</sup> The treatment of ~~section~~ 23.0917 (5r) and (5t) of the statutes first applies to applications for ~~stewardship~~ <sup>and state aid</sup> grants that are submitted to the department of natural resources on the effective date of this subsection.

use auto letter not hand letter (END) of the statutes  
(b) The treatment of sections 23.0916 (3m) and ~~se~~ 23.0917 (5r) and (5t) first applies to acquisitions that are submitted to the governor for his or her approval on the effective date of this ~~act~~ subsection.

INS  
6-13

**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1053/3ins  
MGG:.....

1           **Insert 2-1**

2           **Insert ANL**

Current law authorizes the state to incur public debt by issuing bonds for certain conservation activities under the stewardship program, which DNR administers. The state may authorize bonds to acquire state land or easements that are under the jurisdiction of DNR for areas such as state forests and state parks and the Lower Wisconsin State Riverway. Also, currently under the stewardship program, DNR may issue bonds to award grants or state aid to certain governmental units and to nonprofit conservation organizations in order to acquire lands, easements, or development rights.

The bill limits acquisitions of land, easements, and other rights or interests in land under the stewardship program to only acquisitions of land in fee simple and acquisitions of easements under the federal forest legacy program or easements that are necessary to provide access to lands that are required to be open to the public for which there is no other public access. The bill also requires that DNR give higher priority to fee simple acquisitions over acquisition of such easements. An acquisition of land in fee simple is one where all the interest of land is acquired as opposed to an easement or development rights. The federal forest legacy program is a program under which conservation easements are acquired to protect forested areas on private land from being converted to uses other than forestry.

3           **SECTION 1.** 23.09 (10) of the statutes is amended to read:

4           **23.09 (10) CONSERVATION EASEMENTS AND RIGHTS IN PROPERTY.** Confirming all the  
5 powers hereinabove granted to the department and in furtherance thereof, the  
6 department, subject to the limitation under s. 23.0917 (8) (f), may acquire any and  
7 all easements in the furtherance of public rights, including the right of access and  
8 use of lands and waters for hunting and fishing and the enjoyment of scenic beauty,  
9 together with the right to acquire all negative easements, restrictive covenants,  
10 covenants running with the land, and all rights for use of property of any nature  
11 whatsoever, however denominated, which may be lawfully acquired for the benefit  
12 of the public. The department also may grant leases and easements to properties and

other lands under its management and control under such covenants as will preserve and protect such properties and lands for the purposes for which they were acquired.

History: 1971 c. 40 s. 93; 1971 c. 125 s. 522 (1); 1971 c. 215, 277, 326; 1973 c. 251, 298, 333; 1975 c. 39 ss. 249, 249a, 250m, 734; 1975 c. 91, 200, 224, 365; 1977 c. 29, 402, 406; 1979 c. 34 ss. 699m to 701g, 2102 (39) (a); 1979 c. 89; 1981 c. 20 ss. 598 to 599s, 2202 (38) (c); 1981 c. 295; 1981 c. 390 s. 252; 1983 a. 27, 243; 1985 a. 29, 65, 322; 1985 a. 332 ss. 34, 251 (1); 1987 a. 27, 98, 295, 403; 1989 a. 31, 336, 359; 1991 a. 39, 269, 309; 1993 a. 16, 343, 436, 490; 1995 a. 27, 218, 257, 349, 417; 1997 a. 27, 35, 248, 313; 1999 a. 9, 32, 83; 2001 a. 38, 56, 104, 109; 2003 a. 33, 89; 2005 a. 25, 166, 286; 2007 a. 20; 2009 a. 276.

**SECTION 2.** 23.09 (19) (cg) of the statutes is amended to read:

23.09 (19) (cg) ~~The Subject to the limitation under s. 23.0917 (8) (f), the~~  
department may award grants from the appropriation under s. 20.866 (2) (ta) for the  
acquisition of land or rights in land for urban green space under this subsection only  
for the purposes of nature-based outdoor recreation.

History: 1971 c. 40 s. 93; 1971 c. 125 s. 522 (1); 1971 c. 215, 277, 326; 1973 c. 251, 298, 333; 1975 c. 39 ss. 249, 249a, 250m, 734; 1975 c. 91, 200, 224, 365; 1977 c. 29, 402, 406; 1979 c. 34 ss. 699m to 701g, 2102 (39) (a); 1979 c. 89; 1981 c. 20 ss. 598 to 599s, 2202 (38) (c); 1981 c. 295; 1981 c. 390 s. 252; 1983 a. 27, 243; 1985 a. 29, 65, 322; 1985 a. 332 ss. 34, 251 (1); 1987 a. 27, 98, 295, 403; 1989 a. 31, 336, 359; 1991 a. 39, 269, 309; 1993 a. 16, 343, 436, 490; 1995 a. 27, 218, 257, 349, 417; 1997 a. 27, 35, 248, 313; 1999 a. 9, 32, 83; 2001 a. 38, 56, 104, 109; 2003 a. 33, 89; 2005 a. 25, 166, 286; 2007 a. 20; 2009 a. 276.

**SECTION 3.** 23.09 (20) (am) of the statutes is amended to read:

23.09 (20) (am) Any governmental unit may apply for state aids for the  
acquisition and development of recreational lands and rights in lands. State aids  
under this subsection that are expended from the appropriation under s. 20.866 (2)  
(ta) may only be used for nature-based outdoor recreation. Acquisition of land or  
rights in land using state aids awarded under this subsection are subject to the  
limitation under s. 23.0917 (8) (f). State aids received by a municipality shall be used  
for the development of its park system in accordance with priorities based on  
comprehensive plans submitted with the application and consistent with the outdoor  
recreation program under s. 23.30. An application under this subsection shall be  
made in the manner the department prescribes.

History: 1971 c. 40 s. 93; 1971 c. 125 s. 522 (1); 1971 c. 215, 277, 326; 1973 c. 251, 298, 333; 1975 c. 39 ss. 249, 249a, 250m, 734; 1975 c. 91, 200, 224, 365; 1977 c. 29, 402, 406; 1979 c. 34 ss. 699m to 701g, 2102 (39) (a); 1979 c. 89; 1981 c. 20 ss. 598 to 599s, 2202 (38) (c); 1981 c. 295; 1981 c. 390 s. 252; 1983 a. 27, 243; 1985 a. 29, 65, 322; 1985 a. 332 ss. 34, 251 (1); 1987 a. 27, 98, 295, 403; 1989 a. 31, 336, 359; 1991 a. 39, 269, 309; 1993 a. 16, 343, 436, 490; 1995 a. 27, 218, 257, 349, 417; 1997 a. 27, 35, 248, 313; 1999 a. 9, 32, 83; 2001 a. 38, 56, 104, 109; 2003 a. 33, 89; 2005 a. 25, 166, 286; 2007 a. 20; 2009 a. 276.

**SECTION 4.** 23.09 (20m) (c) of the statutes is created to read:



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1053/3dn

MGG:/...  
js

*- late -*

*If that is not the case, but this  
will need to ~~drafting~~.*

*be redrafted*

2.

1. In drafting this, I assumed that none of these provisions were to apply to the old stewardship program that was funded from the appropriation under s. 20.866 (2) (tz).

3. All of the programs for acquisitions by local governmental units and nonprofit conservation organizations under current law refer to "rights in land", "interests in land", or "easements" except for s. 23.0953. In this draft, I specifically limited acquisitions under s. 23.0953 to those in fee simple. If you want to also include the types of easements that are allowed under this draft, this will need to be redrafted.

6. Please review the initial applicability provision that applies to acquisitions by DNR. I am not sure that submittal to the governor is the best "trigger".

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

23.09 (20m) (c) Beginning with fiscal year 2011-12, the department may not obligate any moneys from the appropriation under s. 20.866 (2) (ta) for grants under this subsection.

**Insert 4-18**

**SECTION 5.** 23.0916 (3) (b) (intro.), 1., 2., and 3. of the statutes are consolidated, renumbered 23,0916 (3) (b) and amended to read:

23.0916 (3) (b) The department may prohibit public access on land or an easement subject to par. (a) for one or more nature-based outdoor activities if the natural resources board determines that it is necessary to ~~do so in order to do any~~ of the following:

1. ~~Protect~~ protect public safety.
2. ~~Protect,~~ protect a unique animal or plant community.
3. ~~Accommodate,~~ or accommodate usership patterns, as defined by rule by the department. This paragraph applies to land in fee simple and easements that are acquired before the effective date of this paragraph .... [LRB inserts date].

History: 2007 a. 20; 2009 a. 28.

**SECTION 6.** 23.0916 (3) (c) of the statutes is created to read:

23.0916 (3) (c) The department may prohibit public access on land or an easement subject to par. (a) for one or more nature-based outdoor activities only if the natural resources board determines that it is necessary <sup>to do so</sup> to protect public safety or to protect a unique animal or plant community. This paragraph applies to land in fee simple and easements that are acquired on or after the effective date of this paragraph .... [LRB inserts date].

**Insert 5-5**

**SECTION 7.** 23.0917 (3) (bm) of the statutes is amended to read:

23.0917 (3) (bm) During the period beginning with fiscal year 2001-02 and ending with fiscal year 2019-20, in obligating money under the subprogram for land acquisition, the department shall set aside not less than a total of \$ 2,000,000 that may be obligated only to provide matching funds for grants awarded to the department for the purchase of land or easements under the forest legacy program under 16 USC 2103c.

History: 1999 a. 9, 185; 2001 a. 16, 30, 109; 2003 a. 33; 2007 a. 20; 2009 a. 28.

**SECTION 8.** 23.0917 (4) (b) 3. of the statutes is amended to read:

23.0917 (4) (b) 3. Grants for acquisition of property development rights under ss. 23.09 (20m) and 23.096. Beginning with fiscal year 2011-12, the department may not obligate moneys for such grants.

History: 1999 a. 9, 185; 2001 a. 16, 30, 109; 2003 a. 33; 2007 a. 20; 2009 a. 28.

**Insert 6-13**

**SECTION 9.** 23.0917 (8) (f) of the statutes is created to read:

23.0917 (8) (f) Beginning with fiscal year 2011-12, in obligating moneys from the appropriation under s. 20.866 (2) (ta), the department may obligate moneys only for the acquisition of land in fee simple and for the acquisition of rights or interests in lands that are easements under the forest legacy program under 16 USC 2103c and or that are easements that are necessary to provide the public access to lands that are required to be open to the public for which there is no other public access.

**SECTION 10.** 23.092 (3) of the statutes is amended to read:

23.092 (3) The department may acquire land and easements for habitat areas by gift or devise or ~~beginning on July 1, 1990, by purchase, subject to the limitation under s. 23.0917 (8) (f). The department may acquire land for habitat areas by gift, devise or purchase.~~

History: 1989 a. 31; 1991 a. 39; 1993 a. 16, 343; 1995 a. 27; 1999 a. 9; 2001 a. 38, 104; 2003 a. 33; 2007 a. 20.

**SECTION 11.** 23.094 (5m) of the statutes is created to read:

23.094 (5m) LIMITATION ON ACQUISITIONS. Acquisitions of land and easements under this section are subject to the limitation under s. 23.0917 (8) (f).

**SECTION 12.** 23.0953 (2) (a) 1. of the statutes is amended to read:

23.0953 (2) (a) 1. Acquisition of land in fee simple for a county forest under s. 28.11.

History: 2007 a. 20.

**SECTION 13.** 23.0953 (2) (a) 2. of the statutes is amended to read:

23.0953 (2) (a) 2. Acquisition of land in fee simple for a project that promotes nature-based outdoor recreation or conservation and for which the department is requesting the county's assistance.

History: 2007 a. 20.

**SECTION 14.** 23.096 (2) (a) of the statutes is amended to read:

23.096 (2) (a) The Subject to the limitation under s. 23.0917 (8) (f), the department may award grants from the appropriation under s. 20.866 (2) (ta) or (tz) to nonprofit conservation organizations to acquire ~~property~~ land for all of the purposes described in ss. 23.09 (2) (d) 1. to 7., 9., 11., 12. and 15., (19), (20) and (20m), 23.092, 23.094, 23.17, 23.175, 23.27, 23.29, 23.293, 30.24 and 30.277.

History: 1989 a. 31; 1991 a. 309; 1993 a. 343; 1997 a. 27; 1999 a. 9; 2007 a. 20.

**SECTION 15.** 23.17 (4) of the statutes is amended to read:

23.17 (4) POWERS OF THE DEPARTMENT. The department may acquire land, subject to the limitation under s. 23.0917 (8) (f), for the ice age trail under s. 23.09 (2) (d) 10., and may develop the ice age trail on lands under its ownership along the trail route.

History: 1987 a. 98, 399; 1991 a. 39.

**SECTION 16.** 23.175 (4) of the statutes is amended to read:

23.175 (4) LIMIT ON SPENDING. Except as provided in s. 23.0915 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more

1 than \$1,000,000 under this section for trails and for grants for this purpose under  
2 s. 23.096 in each fiscal year. Acquisitions of land or easements for trails under this  
3 section are subject to the limitation under s. 23.0917 (8) (f).

History: 1989 a. 31; 1991 a. 39; 1993 a. 72; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16, 90; 2005 a. 335; 2007 a. 35.

4 **SECTION 17. 23.27 (5) of the statutes is amended to read:**

5 **23.27 (5) NATURAL AREAS LAND ACQUISITION; COMMITMENT UNDER THE WISCONSIN**  
6 **NATURAL AREAS HERITAGE PROGRAM.** It is the intent of the legislature to initiate  
7 additional natural areas land acquisition activities with moneys available from the  
8 appropriations under ss. 20.370 (1) (mg) and 20.866 (2) (ta), (tt) and (tz) under the  
9 Wisconsin natural areas heritage program. This commitment is separate from and  
10 in addition to the continuing commitment under sub. (4). Moneys available from the  
11 appropriations under ss. 20.370 (1) (mg) and 20.866 (2) (ta), (tt) and (tz) under the  
12 Wisconsin natural areas heritage program may not be used to acquire land through  
13 condemnation. The department may not acquire land under this subsection unless  
14 the land is suitable for dedication under the Wisconsin natural areas heritage  
15 program and upon purchase or as soon after purchase as practicable the department  
16 shall take all necessary action to dedicate the land under the Wisconsin natural  
17 areas heritage program. Acquisitions of land or of interests in land under this section  
18 are subject to the limitation under s. 23.0917 (8) (f). Except as provided in s. 23.0915  
19 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz)  
20 more than \$500,000 in each fiscal year for natural areas land acquisition activities  
21 under this subsection and for grants for this purpose under s. 23.096.

History: 1985 a. 29; 1987 a. 27; 1989 a. 31; 1991 a. 39, 269; 1997 a. 27 ss. 769 to 772, 9456 (3m); 1999 a. 9; 2003 a. 33 s. 2811; 2003 a. 48 ss. 10, 11; 2003 a. 206 s. 23; 2005 a. 25 ss. 496, 2493.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1053/3dn  
MGG:cjs:rs

February 1, 2011

1. In drafting this, I assumed that none of these provisions were to apply to the old stewardship program that was funded from the appropriation under s. 20.866 (2) (tz). If that is not the case, this will need to be redrafted.
2. All of the programs for acquisitions by local governmental units and nonprofit conservation organizations under current law refer to "rights in land," "interests in land," or "easements" except for s. 23.0953. In this draft, I specifically limited acquisitions under s. 23.0953 to those in fee simple. If you want to also include the types of easements that are allowed under this draft, this will need to be redrafted.
3. Please review the initial applicability provision that applies to acquisitions by DNR. I am not sure that submittal to the governor is the best "trigger."

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**Gibson-Glass, Mary**

---

**From:** Wavrunek, Leah J - DOA [Leah.Wavrunek@wisconsin.gov]

**Sent:** Friday, February 04, 2011 11:20 AM

**To:** Gibson-Glass, Mary

**Cc:** Steinmetz, Jana D - DOA

**Subject:** Stewardship redraft

for 2/4

Hi Mary,

We had some follow up questions back to DNR regarding some of their redraft comments and are waiting for those. In the meantime, here are some other redraft instructions for you to look over...just know that I will be sending more. Again, I will be in pretty much all day tomorrow and then on Sunday I will be in until 3pm (I'm originally from Green Bay and they may revoke my citizenship if I work during the game) if you have any questions.

- ✓ 1. Section 24: line 5, after "provide the public access to lands" add "or waters".
- ✓ 2. Section 24: line 6, replace "no other" with "limited". Do you need to define limited access? DNR offered up a possible definition but it probably doesn't meet drafting conventions: "Limited access" defined as access to property or a body of water that is so restrictive that the public is not able to fully use it for nature based outdoor activities.
- ✓ 3. Eliminate section 19. DNR no longer wants to prioritize certain types of purchases.

I'll send the rest as soon as we hear back from DNR.

Thanks,  
leah

Leah Wavrunek  
State Budget Office  
P: (608) 267-0370  
F: (608) 267-0372  
leah.wavrunek@wisconsin.gov

2/5/2011

for 124

Gibson-Glass, Mary

**From:** Wavrunek, Leah J - DOA [Leah.Wavrunek@wisconsin.gov]

**Sent:** Friday, February 04, 2011 7:08 PM

**To:** Gibson-Glass, Mary

**Cc:** Steinmetz, Jana D - DOA

**Subject:** Redrafting for stewardship draft

Hi Mary,

We got additional guidance from DNR and the Governor's office. Please call me over the weekend if any questions.

- ✓ 1. Delete section 13.
- ✓ 2. Add additional exception to public access to allow the Natural Resources Board to restrict access based on usership patterns for state trails and ice age trail acquisitions.
- ✓ 3. Allow easements be purchased for trails, but restrict the easement to 5 acres or less.
- ✓ 4. Repeal the references to the federal forest legacy program and instead define "forest legacy program" as a conservation easement acquired by the state that includes development rights, access by the public for outdoor recreation, and the assurance that the landowner sustainably manages the land to produce forest products.
- ✓ 5. Limit easements for public access to lands or waters to 5 acres or less.
- ✓ 6. In Section 27, do not add "in fee simple"

I just realized they had no comment on the initial applicability sections, so we will follow up with DNR on that, as I know you had a question regarding that section in your drafter's note.

Thanks,  
leah

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"forest legacy easements"

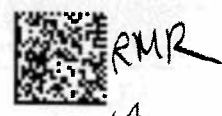
2/5/2011





State of Wisconsin <sup>in</sup>  
2011-2012 LEGISLATURE 215

1st Run



LRB-1053/3 4  
MGG&JK:cjs:rs  
stars

by 8:30 AM area

D-N

DOA:.....Wavrunek, BB0248 - Aids in lieu of taxes and stewardship provisions regarding lands under the jurisdiction of the Department of Natural Resources

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

land acquisitions

LPS:  
fix reqs  
Sheet as  
shown  
On reqs  
Sheet

do NOT go

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

**OTHER NATURAL RESOURCES**

***Land acquisition using stewardship moneys***

Current law authorizes the state to incur public debt by issuing bonds for certain conservation activities under the stewardship program, which DNR administers. The state may authorize bonds to acquire state land or easements that are under the jurisdiction of DNR for areas such as state forests and state parks and the Lower Wisconsin State Riverway. Also, currently under the stewardship program, DNR may issue bonds to award grants or state aid to certain governmental units and to nonprofit conservation organizations in order to acquire lands, easements, or development rights.

The bill limits acquisitions of land, easements, and other rights or interests in land under the stewardship program to only acquisitions of land in fee simple and acquisitions of easements under the federal forest legacy program or easements that are necessary to provide access to lands that are required to be open to the public for which there is no other public access. The bill also requires that DNR give higher priority to fee simple acquisitions over acquisition of such easements. An acquisition

or for which access is limited so  
that

of land in fee simple is one where all the interest of land is acquired as opposed to an easement or development rights. The federal forest legacy program is a program under which conservation easements are acquired to protect forested areas on private land from being converted to uses other than forestry.

With limited exceptions, the bill requires a city, village, town, or county to adopt a nonbinding resolution that either supports or opposes a proposed acquisition of land or easement and requires DNR to consider the resolution in determining whether to approve the acquisition. *This requirement does not apply to forestry easements*

Under current law, lands and certain easements on lands, acquired under the stewardship program must be open to the public for nature-based outdoor activities such as hunting, fishing, hiking, and cross-country skiing unless the DNR board determines that the land may be closed to protect public safety or a unique animal or plant community or to accommodate usership patterns such as conflicts between these types of activities (reasons for prohibiting public access).

The bill eliminates the accommodation of usership patterns as a reason for prohibiting public access with respect to lands, or certain easements on lands, that are acquired after the bill becomes law. The bill also provides, for these lands and easements, that no local unit of government or state agency may enact an ordinance, promulgate a rule, or adopt any other regulation that restricts nature-based activities that is not in conformance with state law or with a determination concerning access made by DNR for the land in question.

### ***Joint finance review of stewardship acquisitions***

Under current law, if a land acquisition or development project under the stewardship program costs more than \$750,000, DNR cannot obligate money from the stewardship fund for that activity until DNR gives written notice of the proposed activity to JCF. JCF may schedule a meeting to review the proposal only if at least five members of JCF, one of whom is a cochairperson, object in writing to the proposed activity. If the cochairpersons of JCF do not notify DNR within 14 working days after the date of DNR's notification that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money. If the cochairpersons notify DNR that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money only if JCF approves the proposed activity or if JCF fails to hold the meeting within a specific number of working days. This bill decreases the \$750,000 threshold amount to \$250,000.

### ***Aid in lieu of taxes for DNR lands***

Under current law, land that DNR purchases is not subject to property taxes. Instead, DNR makes annual payments to municipalities for each parcel of land that the DNR has purchased in those municipalities. The payment amount is determined, generally, by multiplying the parcel's estimated value by the aggregate net general property tax rate that would apply to the parcel if it were subject to property taxes. This bill eliminates those payments for land purchased after the bill's effective date.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 23.09 (10) of the statutes is amended to read:

2       23.09 (10) CONSERVATION EASEMENTS AND RIGHTS IN PROPERTY. Confirming all the  
3 powers hereinabove granted to the department and in furtherance thereof, the  
4 department, subject to the limitation<sup>s</sup> under s. 23.0917<sup>(8m)</sup>, may acquire any and  
5 all easements in the furtherance of public rights, including the right of access and  
6 use of lands and waters for hunting and fishing and the enjoyment of scenic beauty,  
7 together with the right to acquire all negative easements, restrictive covenants,  
8 covenants running with the land, and all rights for use of property of any nature  
9 whatsoever, however denominated, which may be lawfully acquired for the benefit  
10 of the public. The department also may grant leases and easements to properties and  
11 other lands under its management and control under such covenants as will preserve  
12 and protect such properties and lands for the purposes for which they were acquired.

13       **SECTION 2.** 23.09 (19) (cg) of the statutes is amended to read: <sup>(8m)</sup>

14       23.09 (19) (cg) ~~The~~ Subject to the limitation<sup>s</sup> under s. 23.0917<sup>(8m)</sup>, the  
15 department may award grants from the appropriation under s. 20.866 (2) (ta) for the  
16 acquisition of land or rights in land for urban green space under this subsection only  
17 for the purposes of nature-based outdoor recreation.

18       **SECTION 3.** 23.09 (20) (am) of the statutes is amended to read:

19       23.09 (20) (am) Any governmental unit may apply for state aids for the  
20 acquisition and development of recreational lands and rights in lands. State aids  
21 under this subsection that are expended from the appropriation under s. 20.866 (2)

(ta) may only be used for nature-based outdoor recreation. Acquisition of land or rights in land using state aids awarded under this subsection are subject to the limitation<sup>s</sup> under s. 23.0917<sup>(8m)</sup>~~(8)(1)~~. State aids received by a municipality shall be used for the development of its park system in accordance with priorities based on comprehensive plans submitted with the application and consistent with the outdoor recreation program under s. 23.30. An application under this subsection shall be made in the manner the department prescribes.

**SECTION 4.** 23.09 (20m) (c) of the statutes is created to read:

23.09 (20m) (c) Beginning with fiscal year 2011-12, the department may not obligate any moneys from the appropriation under s. 20.866 (2) (ta) for grants under this subsection.

**SECTION 5.** 23.0916 (1) (am) of the statutes is created to read:

23.0916 (1) (am) "Local governmental unit" means a city, a village, a town, a county, a special purpose district in this state, an agency or corporation of a political subdivision or special purpose district, or a combination or subunit of any of the foregoing.

**SECTION 6.** 23.0916 (1) (bg) of the statutes is created to read:

23.0916 (1) (bg) "State agency" has the meaning given in s. 16.004 (12) (a).

**SECTION 7.** 23.0916 (2) (a) of the statutes is amended to read:

23.0916 (2) (a) Except as provided in par. (b) and sub. (4), any person receiving a stewardship grant on or after October 27, 2007, and before the effective date of this paragraph .... [LRB inserts date], that will be used to acquire land in fee simple or to acquire an easement on former managed forest land shall permit public access to the land for nature-based outdoor activities.

**SECTION 8.** 23.0916 (2) (b) (intro.) of the statutes is amended to read:

→ INSERT 4-24

*that will*  
 1           23.0916 (2) (b) (intro.) ~~The~~ person receiving the a stewardship grant subject to  
 2           par. (a) ~~may~~ or (am) prohibit public access for one or more nature-based outdoor activities,  
 3           only if the natural resources board determines that it is necessary to do so in order  
 4           to do any of the following:

5           ~~SECTION 9. 23.0916 (2) (c) of the statutes is created to read:~~  
 6           23.0916 (2) (c) ~~Except as provided in par. (d) and sub. (4), any person receiving~~  
 7           a stewardship grant on or after the effective date of this paragraph ... [LRB inserts  
 8           date], that will be used to acquire land in fee simple or to acquire an easement shall  
 9           permit public access to the land for nature-based outdoor activities. *that are for state trails*

10          ~~SECTION 10. 23.0916 (2) (c) of the statutes is created to read:~~  
 11          23.0916 (2) ~~(c)~~ (c) ~~The person receiving a stewardship grant subject to par. (c) may~~  
 12          prohibit public access for one or more nature-based outdoor activities only if the *(am)*  
 13          natural resources board determines that it is necessary to do so in order to do any  
 14          of the following:

15           1. Protect public safety.

16           2. Protect a unique animal or plant community.

17          ~~SECTION 11. 23.0916 (3) (b) (intro.), 1., 2., and 3. of the statutes are consolidated,~~  
 18          renumbered 23,0916 (3) (b) and amended to read:

19           23.0916 (3) (b) The department may prohibit public access on land or an  
 20           easement subject to par. (a) for one or more nature-based outdoor activities if the  
 21           natural resources board determines that it is necessary to do so ~~in order to do any~~  
 22           ~~of the following:~~ 1. ~~Protect~~ protect public safety. 2. ~~Protect, protect~~ a unique animal  
 23           or plant community. 3. ~~Accommodate, or accommodate~~ usership patterns, as defined  
 24           by rule by the department. This paragraph applies to all acquisitions of land in fee simple and

*that are not  
for state trails  
or the ice  
age trail*

after the effective date of  
this paragraph .... [LRB inserts date]

underscore  
↓  
occur

1 easements that ~~are acquired~~ before the effective date of this paragraph .... [LRB

2 inserts date] ~~and to the acquisition of easements for state~~  
~~trails and the ice age trail that occur~~

3 SECTION 12. 23.0916 (3) (c) of the statutes is created to read:

4 23.0916 (3) (c) The department may prohibit public access on land or an  
5 easement subject to par. (a) for one or more nature-based outdoor activities only if  
6 the natural resources board determines that it is necessary to do so to protect public  
7 safety or to protect a unique animal or plant community. This paragraph applies to ~~acquisitions of~~ ~~land in fee simple and easements~~ ~~that are acquired~~ on or after the effective date of  
8 ~~this paragraph .... [LRB inserts date].~~ ~~for purposes other than for state~~ ~~trails~~ ~~and the ice~~ ~~age~~ ~~trail~~

10 SECTION 13. 23.0916 (3m) of the statutes is created to read:

11 23.0916 (3m) Notwithstanding ss. 29.038 (2) (b) and 66.0409 (3) (b), a local  
12 governmental unit or state agency may not enact any ordinance, promulgate any  
13 rule, or adopt any regulation, resolution, or other restriction that prohibits public  
14 access for any nature-based outdoor activity to land for which moneys are obligated  
15 from the appropriation under s. 20.866 (2) (ta) unless the ordinance, rule, regulation,  
16 resolution, or restriction is in strict conformance with state statutory law or with a  
17 determination made by the natural resources board under sub. (2) (b) or (d) or (3) (b)  
18 or (c).

19 SECTION 14. 23.0916 (4) of the statutes is amended to read:

20 23.0916 (4) FISH AND GAME REFUGES. The department or an owner of land that  
21 is in a fish or game refuge and that is subject to sub. (2) (a) ~~or (c)~~ ~~or (am)~~ or (3) (a) may prohibit  
22 hunting, fishing, or trapping, or any combination thereof.

23 SECTION 15. 23.0916 (5) (a) of the statutes is amended to read:

24 23.0916 (5) (a) Provisions relating to public access for nature-based outdoor  
25 activities for all lands other than those subject to sub. (2) (a) ~~or (c)~~ ~~or (am)~~ or (3) (a) that are

1 acquired in whole or in part with funding from the stewardship programs under ss.  
2 23.0915 and 23.0917.

3 **SECTION 16.** 23.0916 (5) (b) of the statutes is amended to read:

4 23.0916 (5) (b) A process for the review of determinations made under subs. (2)  
5 (b) ~~or (c)~~ and (3) (b) or (c). ← INSERT 7-5

6 **SECTION 17.** 23.0917 (3) (bm) of the statutes is amended to read:

7 ~~23.0917 (3) (bm) During the period beginning with fiscal year 2001-02 and~~  
8 ~~ending with fiscal year 2019-20, in obligating money under the subprogram for land~~  
9 ~~acquisition, the department shall set aside not less than a total of \$ 2,000,000 that~~  
10 ~~may be obligated only to provide matching funds for grants awarded to the~~  
11 ~~department for the purchase of land or easements under the forest legacy program~~  
12 ~~under 16 USC 2103c.~~

13 **SECTION 18.** 23.0917 (4) (b) 3. of the statutes is amended to read:

14 23.0917 (4) (b) 3. Grants for acquisition of property development rights under  
15 ss. 23.09 (20m) and 23.096. Beginning with fiscal year 2011-12, the department may  
16 not obligate moneys for such grants.

17 **SECTION 19.** 23.0917 (5r) of the statutes is created to read:

18 23.0917 (5r) ~~PRIORITY FOR FEE SIMPLE ACQUISITIONS.~~ In obligating moneys from  
19 the appropriation under s. 20.866 (2) (ta), for land acquisition the department shall  
20 give higher priority to acquisitions of land in fee simple than to acquisitions of  
21 easements.

22 **SECTION 20.** 23.0917 (5t) of the statutes is created to read:

23 23.0917 (5t) LOCAL GOVERNMENTAL RESOLUTIONS. Each city, village, town, or  
24 county shall adopt a nonbinding resolution that supports or opposes the proposed  
25 acquisition of land to be funded by moneys obligated from the appropriation under

s. 20.866 (2) (ta) if all or a portion of the land is located in the city, village, town, or county. The department shall provide written notification to each city, village, town, or county that is required to adopt a resolution. Within 30 days after receiving the notification, the city, village, town, or county shall adopt the resolution and shall provide the department with a copy of the resolution. If the department receives the copy within this time period, the department may not approve or deny the proposed acquisition until it takes the resolution into consideration. This paragraph does not apply to proposed acquisitions of land in fee simple or easements under the forest legacy program under 16 USC 2002p.

or of forestry easements

**SECTION 21.** 23.0917 (6m) (c) of the statutes is amended to read:

23.0917 (6m) (c) The procedures under pars. (a) and (b) apply only to an amount for a project or activity that exceeds ~~\$750,000~~ \$250,000, except as provided in pars. (d) and (dm).

**SECTION 22.** 23.0917 (6m) (dm) (intro.) of the statutes is amended to read:

23.0917 (6m) (dm) (intro.) The procedures under pars. (a) and (b) apply to an amount for a project or activity that is less than or equal to ~~\$750,000~~ \$250,000 if all of the following apply:

**SECTION 23.** 23.0917 (6m) (dm) 1. of the statutes is amended to read:

23.0917 (6m) (dm) 1. The project or activity is so closely related to one or more other department projects or activities for which the department has proposed to obligate or has obligated moneys under s. 20.866 (2) (ta) that the projects or activities, if combined, would constitute a larger project or activity that exceeds ~~\$750,000~~ \$250,000.

**SECTION 24.** 23.0917 (6m) of the statutes is created to read:



23.0917 (8) (f) Beginning with fiscal year 2011-12, in obligating moneys from the appropriation under s. 20.866 (2) (ta), the department may obligate moneys only for the acquisition of land in fee simple and for the acquisition of rights or interests in lands that are easements under the forest legacy program under 16 USC 2103c or that are easements that are necessary to provide the public access to lands that are required to be open to the public for which there is <sup>only limited</sup> ~~no other~~ public access.

SECTION 25. 23.092 (3) of the statutes is amended to read:

23.092 (3) The department may acquire land and easements for habitat areas by gift or devise or ~~beginning on July 1, 1990, by purchase, subject to the limitation~~ <sup>(8m)</sup> ~~under s. 23.0917 (8)(f).~~ The department may acquire land for habitat areas by gift, devise or purchase.

SECTION 26. 23.094 (5m) of the statutes is created to read:

23.094 (5m) LIMITATION ON ACQUISITIONS. Acquisitions of land and easements under this section are subject to the limitation <sup>(8m)</sup> ~~under s. 23.0917 (8)(f).~~

SECTION 27. 23.0953 (2) (a) 1. of the statutes is amended to read:

23.0953 (2) (a) 1. Acquisition of land ~~in fee simple~~ <sup>or ~~any~~ easements</sup> for a county forest under s. 28.11.

SECTION 28. 23.0953 (2) (a) 2. of the statutes is amended to read:

23.0953 (2) (a) 2. Acquisition of land ~~in fee simple~~ <sup>or ~~any~~ easements</sup> for a project that promotes nature-based outdoor recreation or conservation and for which the department is requesting the county's assistance.

SECTION 29. 23.096 (2) (a) of the statutes is amended to read:

23.096 (2) (a) The Subject to the limitation <sup>(8m)</sup> ~~under s. 23.0917 (8)(f).~~ the department may award grants from the appropriation under s. 20.866 (2) (ta) or (tz) to nonprofit conservation organizations to acquire ~~property~~ land for all of the

1 purposes described in ss. 23.09 (2) (d) 1. to 7., 9., 11., 12. and 15., (19), (20) and (20m),  
2 23.092, 23.094, 23.17, 23.175, 23.27, 23.29, 23.293, 30.24 and 30.277.

3 **SECTION 30.** 23.17 (4) of the statutes is amended to read:

4 23.17 (4) **POWERS OF THE DEPARTMENT.** The department may acquire land  
5 subject to the limitation<sup>s</sup> under s. 23.0917<sup>(8m)</sup> ~~(8m)~~ for the ice age trail under s. 23.09  
6 (2) (d) 10., and may develop the ice age trail on lands under its ownership along the  
7 trail route.

8 **SECTION 31.** 23.175 (4) of the statutes is amended to read:

9 23.175 (4) **LIMIT ON SPENDING.** Except as provided in s. 23.0915 (2), the  
10 department may not expend from the appropriation under s. 20.866 (2) (tz) more  
11 than \$1,000,000 under this section for trails and for grants for this purpose under  
12 s. 23.096 in each fiscal year. Acquisitions of land or easements for trails under this  
13 section are subject to the limitation<sup>s</sup> under s. 23.0917<sup>(8m)</sup> ~~(8m)~~.

14 **SECTION 32.** 23.27 (5) of the statutes is amended to read:

15 23.27 (5) **NATURAL AREAS LAND ACQUISITION; COMMITMENT UNDER THE WISCONSIN**  
16 **NATURAL AREAS HERITAGE PROGRAM.** It is the intent of the legislature to initiate  
17 additional natural areas land acquisition activities with moneys available from the  
18 appropriations under ss. 20.370 (1) (mg) and 20.866 (2) (ta), (tt) and (tz) under the  
19 Wisconsin natural areas heritage program. This commitment is separate from and  
20 in addition to the continuing commitment under sub. (4). Moneys available from the  
21 appropriations under ss. 20.370 (1) (mg) and 20.866 (2) (ta), (tt) and (tz) under the  
22 Wisconsin natural areas heritage program may not be used to acquire land through  
23 condemnation. The department may not acquire land under this subsection unless  
24 the land is suitable for dedication under the Wisconsin natural areas heritage  
25 program and upon purchase or as soon after purchase as practicable the department

1 shall take all necessary action to dedicate the land under the Wisconsin natural  
2 areas heritage program. Acquisitions of land or of interests in land under this section  
3 are subject to the limitation <sup>S</sup> ~~under s. 23.0917 (5m)~~ <sup>(3m)</sup>. Except as provided in s. 23.0915  
4 (2), the department may not expend from the appropriation under s. 20.866 (2) (tz)  
5 more than \$500,000 in each fiscal year for natural areas land acquisition activities  
6 under this subsection and for grants for this purpose under s. 23.096.

7 **SECTION 33.** 70.114 (5) of the statutes is created to read:

8 70.114 (5) SUNSET. No aids shall be paid under this section for lands acquired  
9 after the effective date of this subsection .... [LRB inserts date].

10 **SECTION 9335. Initial applicability; Natural Resources.**

11 (1) STEWARDSHIP ACQUISITIONS.

12 (a) <sup>Acquis</sup> The treatment of sections 23.0916 (3m) and 23.0917 (5r) ~~and (5t)~~ of the  
13 statutes first applies to applications for grants and state aid that are submitted to  
14 the department of natural resources on the effective date of this subsection.

15 (b) The treatment of sections 23.0916 (3m) and 23.0917 (5r) ~~and (5t)~~ of the  
16 statutes first applies to acquisitions that are submitted to the governor for his or her  
17 approval on the effective date of this subsection.

18 (END)

**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1053/4ins  
MGG:.....

**Insert ANL**

This bill limits acquisitions of land, easements, and <sup>are</sup> other rights or interest<sup>s</sup> in land under the stewardship program to only acquisitions of land in fee simple and acquisitions of certain easements for forestry purposes (forestry easements), easements for state trails or the ice age trail and easements that are necessary to provide access to lands or waters that required to be open to the public for which there is no public access or limited public access. An acquisition of land in fee simple is one where all the rights in the land land are acquired as opposed to the acquisition of just an easement or development rights. <sup>Under the bill</sup> An easement acquired for a state trail, the ice age trail, or to provide access to land or a body of water may not be more than <sup>five</sup> acres in size. <sup>for</sup>

**Insert ANL 2**

✓ <sup>on</sup> This bill eliminates the accommodation of usership patterns as a reason for prohibiting public access with respect to lands, or easements <sup>in</sup> lands, that are not acquired for a state trail or the ice age trail and that are acquired after the bill becomes law.

**Insert 4-24**

<sup>23.0916(2)</sup> <sup>am</sup> Sec. #. CR; 23.0916(2)(am)

<sup>23.0916(2)</sup> (am) Except as provided in par. (b) or (c) and sub. (4), any person receiving a stewardship a stewardship grant on or after the effective date of this paragraph ....

[LRB inserts date], that will be used to acquire land in fee simple or to acquire an easement shall permit public access to the land for nature-based outdoor activities.

**Insert 7-5**

<sup>dm</sup> <sup>dm</sup> <sup>means</sup> SECTION 1. 23.0917 (1) (am) of the statutes is created to read:

23.0917 (1) (am) "Forestry easement" <sup>ea</sup> is <sup>an</sup> conservation easement that includes all of the development rights in the land and that imposes an obligation on the owner of the land to ensure that the land is managed using sustainable forestry practices to produce forest products.

**Insert 9-6**

23.0917 (8m) LIMITATIONS ON ACQUISITIONS. (a) Beginning with fiscal year 2011-12, in obligating moneys from the appropriation under s. 20.866 (2) (ta), the

department may obligate moneys only for the acquisition of land in fee simple and for the acquisition of a right or interest in land that is one of the following:

1. An easement that is necessary to provide the public access to land or a body of water that is required to be open to the public for which there is no other public access or for which public access is limited to the degree that a major amount of one or more nature-based outdoor activities is not allowed.

2. An easement for a state trail or the ice age trail.

3. A forestry easement.

(b) An easement acquired under par. (a) 1. or 2. may not be more than 5 acres in size.

**Insert 9-14**

~~SECTION 2. 23.0953 (1) of the statutes is renumbered 23.0953 (1) (intro.) and amended to read:~~

~~23.0953 (1) (intro.) In this section, "nature-based:~~

~~(b) Nature-based outdoor recreation" has the meaning given by the department by rule under s. 23.0917 (4) (f).~~

History: 2007 a. 20.

~~SECTION 3. 23.0953 (1) (a) of the statutes is created to read:~~

~~23.0953 (1) (a) "Forestry easement" has the meaning given in s. 23.0917 (1)~~

~~(am).~~

**Insert 9-21**

SECTION 4. 23.0953 (4) of the statutes is amended to read:

23.0953 (4) A county may not convert the land, <sup>strike</sup> or any rights in the land, <sup>strike</sup> or <sup>an</sup> ~~any~~

~~forestry~~ <sup>an</sup> ~~forestry~~ easement that is acquired with grant moneys awarded under sub. (2) (a) 2.

to a use that is inconsistent with the type of nature-based outdoor recreation or

⑨ SECTION #. CR 23.0953 (2) (am)

⑨ 23.0953 (2) (am) Easements acquired with a grant under this section are subject to the limitations under s. 23.0917 (8m).

- 1 conservation activity for which the grant was awarded unless the natural resources
- 2 board approves the conversion.

History: 2007 a. 20.

~~SECTION, CR, 29.053(5)~~

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1053/4dn

MGG:f...  
gs

- Late -  
23.0953  
)

In this draft, the defined term "forestry easements" appears in three places: as an exception to the nonbinding resolution requirement (see s. 23.0917 (5t)), as a type of easement for which stewardship moneys may be bonded (see s. 23.0917 (8m)), and as a purpose for which grants may be made to counties (see s. 29.053). Because counties may receive stewardship funding to acquire these easements, I did not restrict the authorization to acquire these easements in s. 23.0917 (8m) to just those acquired by DNR.

<sup>a</sup>  
The description of "limited public access" in this draft is based on language found in NR 52.02 (10) Wis. Adm. Code. If the phrase "so restrictive that the public is not able to fully use the land or body of water" is used, land or body of water would qualify as having limited public access if it was anything less than fully open to the public. I did not think this was the desired intent.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-1053/4

MGG&JK:cjs:ph

2nd Run

J  
Frys

DOA:.....Wavrunek, BB0248 - Aids in lieu of taxes and stewardship provisions regarding land acquisitions

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

do NOT go

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**NATURAL RESOURCES**

**OTHER NATURAL RESOURCES**

***Land acquisition using stewardship moneys***

Current law authorizes the state to incur public debt by issuing bonds for certain conservation activities under the stewardship program, which DNR administers. The state may authorize bonds to acquire state land or easements that are under the jurisdiction of DNR for areas such as state forests and state parks and the Lower Wisconsin State Riverway. Also, currently under the stewardship program, DNR may issue bonds to award grants or state aid to certain governmental units and to nonprofit conservation organizations in order to acquire lands, easements, or development rights.

This bill limits acquisitions of land, easements, and and other rights or interests in land under the stewardship program to only acquisitions of land in fee simply and acquisitions of certain easements for forestry purposes (forestry easements), easements for state trails or the ice age trail, and easements that are necessary to provide access to lands or waters that are required to be open to the public for which there is no public access or limited public access. An acquisition of land in fee simple is one where all the rights in the land land are acquired as opposed



to the acquisition of just an easement or development rights. Under the bill, an easement acquired for a state trail, for the ice age trail, or to provide access to land or a body of water may not be more than five acres in size.

The bill requires a city, village, town, or county to adopt a nonbinding resolution that either supports or opposes a proposed acquisition of land or easement and requires DNR to consider the resolution in determining whether to approve the acquisition. This requirement does not apply to forestry easements.

Under current law, lands and certain easements on lands, acquired under the stewardship program must be open to the public for nature-based outdoor activities such as hunting, fishing, hiking, and cross-country skiing unless the DNR board determines that the land may be closed to protect public safety or a unique animal or plant community or to accommodate usership patterns such as conflicts between these types of activities (reasons for prohibiting public access). This bill eliminates the accommodation of usership patterns as a reason for prohibiting public access with respect to lands, or easements on lands, that are not acquired for a state trail or the ice age trail and that are acquired after the bill becomes law.

#### ***Joint finance review of stewardship acquisitions***

Under current law, if a land acquisition or development project under the stewardship program costs more than \$750,000, DNR cannot obligate money from the stewardship fund for that activity until DNR gives written notice of the proposed activity to JCF. JCF may schedule a meeting to review the proposal only if at least five members of JCF, one of whom is a cochairperson, object in writing to the proposed activity. If the cochairpersons of JCF do not notify DNR within 14 working days after the date of DNR's notification that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money. If the cochairpersons notify DNR that JCF has scheduled a meeting to review the proposed activity, DNR can obligate the money only if JCF approves the proposed activity or if JCF fails to hold the meeting within a specific number of working days. This bill decreases the \$750,000 threshold amount to \$250,000.

#### ***Aid in lieu of taxes for DNR lands***

Under current law, land that DNR purchases is not subject to property taxes. Instead, DNR makes annual payments to municipalities for each parcel of land that the DNR has purchased in those municipalities. The payment amount is determined, generally, by multiplying the parcel's estimated value by the aggregate net general property tax rate that would apply to the parcel if it were subject to property taxes. This bill eliminates those payments for land purchased after the bill's effective date.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 23.09 (10) of the statutes is amended to read:

1           23.09 (10) CONSERVATION EASEMENTS AND RIGHTS IN PROPERTY. Confirming all the  
2 powers hereinabove granted to the department and in furtherance thereof, the  
3 department, subject to the limitations under s. 23.0917 (8m), may acquire any and  
4 all easements in the furtherance of public rights, including the right of access and  
5 use of lands and waters for hunting and fishing and the enjoyment of scenic beauty,  
6 together with the right to acquire all negative easements, restrictive covenants,  
7 covenants running with the land, and all rights for use of property of any nature  
8 whatsoever, however denominated, which may be lawfully acquired for the benefit  
9 of the public. The department also may grant leases and easements to properties and  
10 other lands under its management and control under such covenants as will preserve  
11 and protect such properties and lands for the purposes for which they were acquired.

12           **SECTION 2.** 23.09 (19) (cg) of the statutes is amended to read:

13           23.09 (19) (cg) ~~The~~ Subject to the limitations under s. 23.0917 (8m), the  
14 department may award grants from the appropriation under s. 20.866 (2) (ta) for the  
15 acquisition of land or rights in land for urban green space under this subsection only  
16 for the purposes of nature-based outdoor recreation.

17           **SECTION 3.** 23.09 (20) (am) of the statutes is amended to read:

18           23.09 (20) (am) Any governmental unit may apply for state aids for the  
19 acquisition and development of recreational lands and rights in lands. State aids  
20 under this subsection that are expended from the appropriation under s. 20.866 (2)  
21 (ta) may only be used for nature-based outdoor recreation. Acquisition of land or  
22 rights in land using state aids awarded under this subsection are subject to the  
23 limitations under s. 23.0917 (8m). State aids received by a municipality shall be used  
24 for the development of its park system in accordance with priorities based on  
25 comprehensive plans submitted with the application and consistent with the outdoor

1 recreation program under s. 23.30. An application under this subsection shall be  
2 made in the manner the department prescribes.

3 **SECTION 4.** 23.09 (20m) (c) of the statutes is created to read:

4 23.09 (20m) (c) Beginning with fiscal year 2011-12, the department may not  
5 obligate any moneys from the appropriation under s. 20.866 (2) (ta) for grants under  
6 this subsection.

7 **SECTION 5.** 23.0916 (1) (am) of the statutes is created to read:

8 23.0916 (1) (am) "Local governmental unit" means a city, a village, a town, a  
9 county, a special purpose district in this state, an agency or corporation of a political  
10 subdivision or special purpose district, or a combination or subunit of any of the  
11 foregoing.

12 **SECTION 6.** 23.0916 (1) (bg) of the statutes is created to read:

13 23.0916 (1) (bg) "State agency" has the meaning given in s. 16.004 (12) (a).

14 **SECTION 7.** 23.0916 (2) (a) of the statutes is amended to read:

15 23.0916 (2) (a) <sup>Earlier acquisitions. I</sup> Except as provided in par. (b) and sub. (4), any person receiving  
16 a stewardship grant on or after October 27, 2007, and before the effective date of this  
17 paragraph .... [LRB inserts date], that will be used to acquire land in fee simple or  
18 to acquire an easement on former managed forest land shall permit public access to  
19 the land for nature-based outdoor activities.

20 **SECTION 8.** 23.0916 (2) (am) of the statutes is created to read:

21 23.0916 (2) (am) <sup>Later acquisitions. I</sup> Except as provided in par. (b) or (c) and sub. (4), any person  
22 receiving a stewardship grant on or after the effective date of this paragraph .... [LRB  
23 <sup>former</sup> inserts date], that will be used to acquire land in fee simple or to acquire an easement  
24 <sup>on former managed forest land</sup> shall permit public access to the land for nature-based outdoor activities.

25 **SECTION 9.** 23.0916 (2) (b) (intro.) of the statutes is amended to read:

I

Authority to prohibit access; earlier acquisitions  
trails

23.0916 (2) (b) (intro.) The Except as provided in par. (c), the person receiving  
the a stewardship grant subject to par. (a) or (am) may prohibit public access for one  
or more nature-based outdoor activities, only if the natural resources board  
determines that it is necessary to do so in order to do any of the following:

SECTION 10. 23.0916 (2) (c) of the statutes is created to read:

Authority to prohibit access; later acquisitions. I

23.0916 (2) (c) For acquisitions of land or easements that are not for state trails  
or the ice age trail the person receiving a stewardship grant subject to par. (am) may  
prohibit public access for one or more nature-based outdoor activities only if the  
natural resources board determines that it is necessary to do so in order to do any  
of the following:

1. Protect public safety.
2. Protect a unique animal or plant community.

SECTION 11. 23.0916 (3) (b) (intro.), 1., 2., and 3. of the statutes are consolidated,  
renumbered 23,0916 (3) (b) and amended to read:

I

23.0916 (3) (b) Authority to prohibit access; earlier acquisitions;  
trails.  
The department may prohibit public access on land or an  
easement subject to par. (a) for one or more nature-based outdoor activities if the  
natural resources board determines that it is necessary to do so in order to do any  
of the following: 1. Protect protect public safety. 2. Protect, protect a unique animal  
or plant community. 3. Accommodate, or accommodate usership patterns, as defined  
by rule by the former department. This paragraph applies to all acquisitions of land in fee  
on managed forest land  
simple and easements that occur before the effective date of this paragraph .... [LRB  
on former managed forest land  
inserts date], and to the acquisition of easements for state trails and the ice age trail  
that occur on or after the effective date of this paragraph .... [LRB inserts date].

SECTION 12. 23.0916 (3) (c) of the statutes is created to read:

④ Sec. #. CR; 23.0916 (3) (a) (title) I

④ 23.0916 (3) (a) (title) All acquisitions. B

(I)

Authority to prohibit access; later acquisitions.

1           23.0916 (3) (c) The department may prohibit public access on land or an  
2           easement subject to par. (a) for one or more nature-based outdoor activities only if  
3           the natural resources board determines that it is necessary to do so to protect public  
4           safety or to protect a unique animal or plant community. This paragraph applies to  
5           acquisitions of land in fee simple and easements ~~for~~ on former managed forest land and ~~acquired~~  
6           trails and the ice age trail that occur on or after the effective date of this paragraph  
7           .... [LRB inserts date].

8           **SECTION 13.** 23.0916 (4) of the statutes is amended to read:

9           23.0916 (4) FISH AND GAME REFUGES. The department or an owner of land that  
10          is in a fish or game refuge and that is subject to sub. (2) (a) or (am) or (3) (a) may  
11          prohibit hunting, fishing, or trapping, or any combination thereof.

12          **SECTION 14.** 23.0916 (5) (a) of the statutes is amended to read:

13          23.0916 (5) (a) Provisions relating to public access for nature-based outdoor  
14          activities for all lands other than those subject to sub. (2) (a) or (am) or (3) (a) that  
15          are acquired in whole or in part with funding from the stewardship programs under  
16          ss. 23.0915 and 23.0917.

17          **SECTION 15.** 23.0916 (5) (b) of the statutes is amended to read:

18          23.0916 (5) (b) A process for the review of determinations made under subs. (2)  
19          (b) or (c) and (3) (b) or (c).

20          **SECTION 16.** 23.0917 (1) (cm) of the statutes is created to read:

21          23.0917 (1) (cm) "Forestry easement" means a conservation easement that  
22          includes all of the development rights in the land and that imposes an obligation on  
23          the owner of the land to ensure that the land is managed using sustainable forestry  
24          practices to produce forest products.

25          **SECTION 17.** 23.0917 (4) (b) 3. of the statutes is amended to read:

1           23.0917 (4) (b) 3. Grants for acquisition of property development rights under  
2           ss. 23.09 (20m) and 23.096. Beginning with fiscal year 2011-12, the department may  
3           not obligate moneys for such grants.

4           **SECTION 18.** 23.0917 (5t) of the statutes is created to read:

5           23.0917 (5t) LOCAL GOVERNMENTAL RESOLUTIONS. Each city, village, town, or  
6           county shall adopt a nonbinding resolution that supports or opposes the proposed  
7           acquisition of land to be funded by moneys obligated from the appropriation under  
8           s. 20.866 (2) (ta) if all or a portion of the land is located in the city, village, town, or  
9           county. The department shall provide written notification to each city, village, town,  
10          or county that is required to adopt a resolution. Within 30 days after receiving the  
11          notification, the city, village, town, or county shall adopt the resolution and shall  
12          provide the department with a copy of the resolution. If the department receives the  
13          copy within this time period, the department may not approve or deny the proposed  
14          acquisition until it takes the resolution into consideration. This paragraph does not  
15          apply to proposed acquisitions of land in fee simple or of forestry easements.

16          **SECTION 19.** 23.0917 (6m) (c) of the statutes is amended to read:

17          23.0917 (6m) (c) The procedures under pars. (a) and (b) apply only to an amount  
18          for a project or activity that exceeds ~~\$750,000~~ \$250,000, except as provided in pars.  
19          (d) and (dm).

20          **SECTION 20.** 23.0917 (6m) (dm) (intro.) of the statutes is amended to read:

21          23.0917 (6m) (dm) (intro.) The procedures under pars. (a) and (b) apply to an  
22          amount for a project or activity that is less than or equal to ~~\$750,000~~ \$250,000 if all  
23          of the following apply:

24          **SECTION 21.** 23.0917 (6m) (dm) 1. of the statutes is amended to read:

1           23.0917 **(6m)** (dm) 1. The project or activity is so closely related to one or more  
2 other department projects or activities for which the department has proposed to  
3 obligate or has obligated moneys under s. 20.866 (2) (ta) that the projects or  
4 activities, if combined, would constitute a larger project or activity that exceeds  
5 ~~\$750,000~~ \$250,000.

6           **SECTION 22.** 23.0917 (8m) of the statutes is created to read:

7           23.0917 **(8m)** LIMITATIONS ON ACQUISITIONS. (a) Beginning with fiscal year  
8 2011-12, in obligating moneys from the appropriation under s. 20.866 (2) (ta), the  
9 department may obligate moneys only for the acquisition of land in fee simple and  
10 for the acquisition of a right or interest in land that is one of the following:

11           1. An easement that is necessary to provide the public access to land or a body  
12 of water that is required to be open to the public for which there is no other public  
13 access or for which public access is limited to the degree that a major amount of one  
14 or more nature-based outdoor activities is not allowed.

15           2. An easement for a state trail or the ice age trail.

16           3. A forestry easement.

17           (b) An easement acquired under par. (a) 1. or 2. may not be more than 5 acres  
18 in size.

19           **SECTION 23.** 23.092 (3) of the statutes is amended to read:

20           23.092 **(3)** The department may acquire land and easements for habitat areas  
21 by gift or devise or ~~beginning on July 1, 1990~~, by purchase, subject to the limitations  
22 under s. 23.0917 (8m). ~~The department may acquire land for habitat areas by gift,~~  
23 ~~devise or purchase.~~

24           **SECTION 24.** 23.094 (5m) of the statutes is created to read:

1           23.094 (5m) LIMITATION ON ACQUISITIONS. Acquisitions of land and easements  
2 under this section are subject to the limitations under s. 23.0917 (8m).

3           **SECTION 25.** 23.0953 (2) (a) 1. of the statutes is amended to read:

4           23.0953 (2) (a) 1. Acquisition of land or easements for a county forest under s.  
5 28.11.

6           **SECTION 26.** 23.0953 (2) (a) 2. of the statutes is amended to read:

7           23.0953 (2) (a) 2. Acquisition of land or easements for a project that promotes  
8 nature-based outdoor recreation or conservation and for which the department is  
9 requesting the county's assistance.

10          **SECTION 27.** 23.0953 (2) (am) of the statutes is created to read:

11          23.0953 (2) (am) ~~Easements~~ <sup>Land and easements</sup> (acquired with a grant under this section are  
12 subject to the limitations under s. 23.0917 (8m).

13          **SECTION 28.** 23.0953 (4) of the statutes is amended to read:

14          23.0953 (4) A county may not convert the land, or any rights in the such land,  
15 or an easement that is acquired with grant moneys awarded under sub. (2) (a) 2. to  
16 a use that is inconsistent with the type of nature-based outdoor recreation or  
17 conservation activity for which the grant was awarded unless the natural resources  
18 board approves the conversion.

19          **SECTION 29.** 23.096 (2) (a) of the statutes is amended to read:

20          23.096 (2) (a) The Subject to the limitations under s. 23.0917 (8m), the  
21 department may award grants from the appropriation under s. 20.866 (2) (ta) or (tz)  
22 to nonprofit conservation organizations to acquire ~~property~~ land for all of the  
23 purposes described in ss. 23.09 (2) (d) 1. to 7., 9., 11., 12. and 15., (19), (20) and (20m),  
24 23.092, 23.094, 23.17, 23.175, 23.27, 23.29, 23.293, 30.24 and 30.277.

25          **SECTION 30.** 23.17 (4) of the statutes is amended to read:



1        23.17 (4) POWERS OF THE DEPARTMENT. The department may acquire land and  
2        ~~interests in land~~ easements, subject to the limitations under s. 23.0917 (8m), for the ice age trail under  
3        s. 23.09 (2) (d) 10., and may develop the ice age trail on lands under its ownership  
4        along the trail route.

5        **SECTION 31.** 23.175 (4) of the statutes is amended to read:

6        23.175 (4) LIMIT ON SPENDING. Except as provided in s. 23.0915 (2), the  
7        department may not expend from the appropriation under s. 20.866 (2) (tz) more  
8        than \$1,000,000 under this section for trails and for grants for this purpose under  
9        s. 23.096 in each fiscal year. Acquisitions of land or easements for trails under this  
10       section are subject to the limitations under s. 23.0917 (8m).

11       **SECTION 32.** 23.27 (5) of the statutes is amended to read:

12       23.27 (5) NATURAL AREAS LAND ACQUISITION; COMMITMENT UNDER THE WISCONSIN  
13       NATURAL AREAS HERITAGE PROGRAM. It is the intent of the legislature to initiate  
14       additional natural areas land acquisition activities with moneys available from the  
15       appropriations under ss. 20.370 (1) (mg) and 20.866 (2) (ta), (tt) and (tz) under the  
16       Wisconsin natural areas heritage program. This commitment is separate from and  
17       in addition to the continuing commitment under sub. (4). Moneys available from the  
18       appropriations under ss. 20.370 (1) (mg) and 20.866 (2) (ta), (tt) and (tz) under the  
19       Wisconsin natural areas heritage program may not be used to acquire land through  
20       condemnation. The department may not acquire land under this subsection unless  
21       the land is suitable for dedication under the Wisconsin natural areas heritage  
22       program and upon purchase or as soon after purchase as practicable the department  
23       shall take all necessary action to dedicate the land under the Wisconsin natural  
24       areas heritage program. Acquisitions of land or of interests in land under this section  
25       are subject to the limitations under s. 23.0917 (8m). Except as provided in s. 23.0915

(2), the department may not expend from the appropriation under s. 20.866 (2) (tz) more than \$500,000 in each fiscal year for natural areas land acquisition activities under this subsection and for grants for this purpose under s. 23.096.

**SECTION 33.** 70.114 (5) of the statutes is created to read:

70.114 (5) SUNSET. No aids shall be paid under this section for lands acquired after the effective date of this subsection .... [LRB inserts date].

**SECTION 9335. Initial applicability; Natural Resources.**

(1) STEWARDSHIP ACQUISITIONS.

(a) The treatment of section 23.0917 (5t) of the statutes first applies to applications for grants and state aid that are submitted to the department of natural resources on the effective date of this subsection.

(b) The treatment of section 23.0917 (5t) of the statutes first applies to acquisitions that are submitted to the governor for his or her approval on the effective date of this subsection.

(END)

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Section #. 28.02 (2) of the statutes is amended to read:

28.02 (2) ACQUISITION. <sup>↓</sup> Subject to the limitations under s. 23.0917  
~~The~~ department may acquire lands or interest in lands by grant, devise, (8m)  
the gift, condemnation or purchase within the boundaries of established state forests or purchase areas;  
and outside of such boundaries for forest nurseries, tracts for forestry research or demonstration and  
for forest protection structures, or for access to such properties. In the case of condemnation the  
department shall first obtain approval from the appropriate standing committees of each house of  
the legislature as determined by the presiding officer thereof.

**History:** 1977 c. 29; 1983 a. 192; 1983 a. 423 s. 12; 1985 a. 30 s. 42; 1985 a. 297 s. 76; 1993 a. 16; 2005 a. 441.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1053/4dn  
MGG:cjs:ph

February 8, 2011

In this draft, the defined term “forestry easements” appears in three places: as an exception to the nonbinding resolution requirement (see s. 23.0917 (5t)), as a type of easement for which stewardship moneys may be bonded (see s. 23.0917 (8m)), and as a purpose for which grants may be made to counties (see s. 23.0953). Because counties may receive stewardship funding to acquire these easements, I did not restrict the authorization to acquire these easements in s. 23.0917 (8m) to just those acquired by DNR.

The description of “limited public access” in this draft is based on language found in NR 52.02 (10) Wis. Adm. Code. If the phrase “so restrictive that the public is not able to fully use the land or body of water” is used, land or a body of water would qualify as having limited public access if it was anything less than fully open to the public. I did not think this was the desired intent.

Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1053/4dn  
MGG:cjs:rs

February 9, 2011

In this draft, the defined term “forestry easements” appears in three places: as an exception to the nonbinding resolution requirement (see s. 23.0917 (5t)), as a type of easement for which stewardship moneys may be bonded (see s. 23.0917 (8m)), and as a purpose for which grants may be made to counties (see s. 23.0953). Because counties may receive stewardship funding to acquire these easements, I did not restrict the authorization to acquire these easements in s. 23.0917 (8m) to just those acquired by DNR.

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Mary Gibson-Glass  
Senior Legislative Attorney  
Phone: (608) 267-3215

**Gibson-Glass, Mary**

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**From:** Wavrunek, Leah J - DOA [Leah.Wavrunek@wisconsin.gov]

**Sent:** Thursday, February 10, 2011 9:30 PM

**To:** Gibson-Glass, Mary

**Subject:** Stewardship

Hi Mary,

We shared the latest draft with folks and there is only ONE change:

Section 19, line 23: strike "in fee simple" so the only exemption from the resolutions is for forestry easements.

Does this change affect any other section of the draft? I couldn't find any, but I am also not my sharpest at the moment.

Also, we asked them to again review the initial applicability sections and DNR said they are fine.

I'm around all day tomorrow (and Saturday and Sunday!) if you have questions.

Thanks,

leah

Leah Wavrunek

State Budget Office

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